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ALAN J. BRUDNER
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September 30, 2024

Honorable Alvin K. Hellerstein
United States District Court
Southern District of New York
500 Pearl Street
New York, NY 10007

**Re: United States v. Sung Kook ("Bill") Hwang and Patrick Halligan,
No. 22 Cr. 240 (AKH) – Victim Impact Statement on Behalf of UBS**

Dear Judge Hellerstein:

On behalf of our client, UBS,¹ we respectfully submit this letter, the Declaration of Alan J. Brudner ("Brudner Decl.") and the Exhibits attached thereto as UBS's Victim Impact Statement ("VIS"), and request that the Court consider this VIS in connection with the sentencing of Defendants Sung Kook ("Bill") Hwang and Patrick Halligan. As this Court is aware, a victim of a federal crime has a right to be heard at the sentencing of the perpetrator. 18 USC § 3771(a)(4). UBS was one of the bank counterparties that Hwang and Halligan were convicted of defrauding by means of false and misleading statements made to UBS regarding Archegos's business, portfolio composition and liquidity, and assets. (*See, e.g., United States v. Sung Kook (Bill) Hwang and Patrick Halligan*, No. 22 Cr. 240, ECF No. 134 ("Superseding Indictment"), ¶¶ 48, 52(b)–(c), 54(a)–(b)(ii), 57, 66; Brudner Decl. Ex. 1 (*United States v. Hwang*, No. 22 Cr. 240, Trial Tr. ("Tr.") 1143–44; 1152–55 (Archegos Chief Risk Officer Scott Becker admits lying to UBS to hide the ongoing fraud)); Brudner Decl., Ex. 2 (Tr. 3426–32 (Archegos head trader Will Tomita admits to lying to UBS to obtain additional trading capacity))).

There was significant evidence at trial concerning the Archegos fraud on UBS, including recorded conversations and meetings, trading records, email and text messages. Among other things, the government called three UBS witnesses to testify about Archegos's dealings with UBS. Two former UBS employees responsible for monitoring and managing the risk associated with the Archegos relationship, Bryan Fairbanks and Chris Salcedo, testified regarding the false and

¹ "UBS" as used herein includes UBS AG and its branches as well as its indirect wholly-owned subsidiary, UBS Securities LLC, a US broker-dealer engaged in investment banking. On July 1, 2024, UBS AG completed a merger with Credit Suisse AG ("CS"). This VIS is not submitted on behalf of CS, for which a separate VIS is being submitted.

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misleading statements Archegos made to them over the course of the relationship that made UBS comfortable with the risk. (*See, e.g.*, Brudner Decl., Ex. 3 (Tr. 101:25–102:4 (Fairbanks testified that “the information was lies, that all the information that they had shared with us was made up”)); Brudner Decl., Ex. 4 (Tr. 1889, 2007:6–7 (Salcedo testified that information Archegos Chief Risk Office Scott Becker provided about its liquidity profile “was what gave us comfort in order to go ahead and make [the] risk-based decision” to allow Archegos to increase its positions, but it “turned out not to be true.”)). Both Mr. Fairbanks and Mr. Salcedo testified that they would have exited Archegos as a client earlier in the relationship if they had had accurate information about Archegos’s overall portfolio. (*See, e.g.*, Brudner Decl., Ex. 3 (Tr. 184:5–13); Brudner Decl., Ex. 4 (Tr. 2007: 1–7)). Mr. Fairbanks testified that if Mr. Becker had told him in March 2021 that Archegos’s top position at that time was more than 75 percent of capital rather than 35 percent, he “probably would have hit the panic button, reached out to senior management to alert them of the –how much risk – how much more risk we were taking than we thought. We would raise margins on the client and potentially ask them to leave, and we’d fire the client.” (Brudner Decl., Ex. 3 (Tr. 184:5–13)). Mr. Salcedo similarly testified that “we would have charged higher margin rates if we knew that our portfolio was replicated across other brokers, and that they weren’t investing in highly liquid mega-cap stocks. And that rate probably would have been around 100 percent, and we would have exited the fund if we knew that, but we didn’t know that.” (Brudner Decl., Ex. 4 (Tr. 2007:1–5)).

Mr. Fairbanks testified that as of the date of Archegos’s default, UBS had lost “a little more than \$860 million.” (Brudner Decl., Ex. 3 (Tr. 101)). Giselle Tropper, a current UBS employee, prepared the calculations set forth in UBS’s Notice of Early Termination for Archegos, which was entered into evidence at trial as Government Exhibit 2189 and which compiled UBS’s net loss. (Brudner Decl., Ex. 5 (Tr. 1749:19–24)). At trial, Ms. Tropper explained how UBS calculated its loss, which was \$860,268,783 as of May 12, 2021 (the date when UBS terminated Archegos’s swap agreements). (*Id.*, at 1747–53). First, UBS calculated the “Net Early Termination Amount” based on the UBS loss amount as of the default on March 27, 2021, plus UBS’s costs of liquidating its hedge positions in the weeks following the default. (*Id.*, at 1750–54; Brudner Decl., Ex. 6 (UBS Notice of Early Termination Amount Due under 2002 ISDA Master Agreement, Liquidation of the PB Agreements Collateral and Application of Proceeds of Collateral Held in Accordance with the PB Agreements (including Annexes I, II and III) (GX 2189))). In sum:

- **\$863,720,408** was the amount of UBS’s loss on the day of Archegos’s default (failure to meet a margin call) based on prior cash exchanges at swap resets and changes in the value of the swaps. (Brudner Decl., Ex. 5 (Tr. 1748, 52)).
- **\$710,614,923** was the “total closeout amount,” the cost to UBS of liquidating the hedges following Archegos’s default. (*Id.*, at 1751).

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- **\$174,207,174** was “posted collateral,” the excess margin withdrawn by Archegos on March 25, 2021, just before Archegos’s default. (*Id.*, at 1752-53).
- Those three categories of losses to UBS totaled **\$1,748,542,506**, which UBS referred to as the “Net Early Termination Amount” (*Id.*, at 1753:8–17).

From the Net Early Termination Amount, UBS then credited various amounts to Archegos. Ms. Tropper testified that these offsets were from collateral that Archegos had in various UBS accounts (*Id.*, at 1753–54):

- **\$204,692,694** was the value of securities Archegos held in its prime brokerage account at UBS Securities LLC. As a result of Archegos’s default, UBS took possession of these securities and sold them. This amount represents the proceeds of those sales. (Brudner Decl., Ex. 6 (GX 2189)).
- **\$395,990,569** was the amount of other collateral held in the UBS Securities LLC prime brokerage account. (Brudner Decl., Ex. 6 (GX 2189)).
- **\$287,590,460** was the value of collateral in Archegos’s UBS account at UBS AG, the international account that held Archegos’s swap positions. (Brudner Decl., Ex. 6 (GX 2189)).

Accordingly, UBS’s net loss was **\$860,268,783** as of May 12, 2021 (Brudner Decl., Ex. 5 (Tr. 1754:2–3); Brudner Decl., Ex. 6 (GX 2189)).²

Following the liquidation and termination of Archegos’s swap account at UBS, UBS engaged in an informal dispute resolution process with Archegos, pursuant to which UBS recovered **\$66,252,554.73** from Archegos. (Brudner Decl., ¶ 10). This amount was paid in various tranches on five dates between December 2021 and December 2023:

² UBS’s losses all derive from securities positions it would not have held if it knew Archegos was providing it with the types of false and fraudulent information alleged in Counts One and Ten of the Superseding Indictment (¶¶ 68–74, 79–80) and proven at trial, because UBS would have stopped doing business with Archegos, as its witnesses testified. Accordingly, Hwang’s acquittal on Count Seven, which charged market manipulation of the stock of iQIYI, should have no impact on UBS’s loss amount for purposes of restitution; UBS would not have been holding the position if not for the Defendants’ fraud.

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Date	Amount
12/31/2021	\$8,404,033.29
12/22/2022	\$20,178,068.28
02/15/2023	\$34,667,703.58
03/30/2023	\$1,525,143.37
12/29/2023	\$1,477,606.21
Total USD	\$66,252,554.73

In collecting these funds, UBS retained the right to obtain additional recovery, including via restitution in this criminal case. (*Id.*). In addition to recovery of losses, case law in the Second Circuit supports the discretion of the Court to award prejudgment interest to fraud victims. *United States v. Qurashi*, 634 F.3d 699, 704 (2d Cir. 2011). That interest would be calculated on the loss amount at early termination, **\$860,268,783**, adjusted for a reduction in the principal loss amount for each of the five payments that were made to UBS as of the dates when they were made. At our request, an economist at Cornerstone Research calculated the interest for the period between May 12, 2021 and September 30, 2024, and concluded that the amount is **\$114,634,885.93**, using the rate “equal to the weekly average 1-year constant maturity Treasury yield . . . for the calendar week preceding the first day on which the defendant is liable for interest.” (Brudner Decl., ¶ 11 (quoting *United States v. Smerling*, No. 21 Cr. 317 (DLC), 2022 WL 1806300, at *2 (S.D.N.Y. June 1, 2022) (Cote, J.); *United States v. Glencore Int’l A.G.*, No. 22 Cr. 297 (LGS), 2023 WL 2242469, at *9 (S.D.N.Y. Feb. 27, 2023) (Schofield, J.))). The 1-year constant maturity rate for the week ending September 27, 2024, used by Cornerstone in this calculation, was 3.908%. (*Id.*) That rate may change by the time of sentencing.

We view the starting date of May 12, 2021, the date of UBS’s Early Termination Notice, as conservative. Following the Archegos default on March 27, 2021, UBS worked to liquidate its positions following the default and had completed liquidation of all of its hedge positions associated with the Archegos portfolio by May 12, 2021. (Brudner Decl., Ex. 5 (Tr. 1747:3–9)). UBS is not proposing that interest be calculated at the time of each of its sales of securities, nor at the various earlier times it would have exited the relationship if it had been aware that Archegos was providing it with false and misleading information. UBS is also not seeking restitution for other expenses it incurred as a result of Archegos’s default and criminal conduct, such as attorneys’ fees.

Accordingly, UBS’s claim for restitution is **\$908,651,114.20**, comprised of its loss of **\$860,268,783.00**, plus prejudgment interest of **\$114,634,885.93**, minus recoveries totaling **\$66,252,554.73**.

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Respectfully submitted,

A handwritten signature in black ink, appearing to read "A. J. Brudner", followed by a long horizontal line.

Alan J. Brudner

Cc: Wendy Olsen
Victim-Witness Coordinator
United States Attorney's Office, SDNY

Assistant United States Attorneys, SDNY:
Alexandra Rothman
Matthew Podolsky
Andrew Thomas
Samuel Rothschild

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK**

-----X	
UNITED STATES OF AMERICA,	:
	:
v.	: 22 Cr. 240 (AKH)
	:
SUNG KOOK HWANG and PATRICK	:
HALLIGAN, Defendants.	:
-----X	

**Declaration of Alan J. Brudner in Support of
Victim Impact Statement of UBS**

Alan J. Brudner declares as follows pursuant to 28 U.S.C. § 1746:

1. I am an attorney licensed to practice law in the State of New York. I am a partner at the law firm Katten Muchin Rosenman LLP (“Katten”), counsel for UBS AG (including its London Branch and its indirect wholly-owned broker-dealer subsidiary, UBS Securities LLC)(“UBS”) in this matter. I submit this declaration in support of UBS’s Victim Impact Statement (“VIS”).

2. Matters stated herein are true to the best of my knowledge, information and belief, and are based on my personal knowledge, my review of the trial record, pleadings and documents filed in this case, documents and information provided to me by my client, and information provided to me by Cornerstone Research, which performed interest rate calculations on behalf of UBS.

3. On March 19, 2023, UBS agreed to acquire Credit Suisse AG (“CS”). The merger was completed on July 1, 2024, and CS is no longer an independent legal entity. However, this VIS submitted on behalf of UBS is not intended to cover CS, for which a separate VIS is being submitted.

4. Attached hereto as **Exhibit 1** is a true and correct copy of excerpted transcript pages of the trial testimony of Archegos Chief Risk Officer Scott Becker in the

above-captioned action.

5. Attached hereto as **Exhibit 2** is a true and correct copy of excerpted transcript pages of the trial testimony of Archegos head trader William (“Will”) Tomita in the above-captioned action.

6. Attached hereto as **Exhibit 3** is a true and correct copy of excerpted transcript pages of the trial testimony of UBS former employee Bryan Fairbanks in the above-captioned action.

7. Attached hereto as **Exhibit 4** is a true and correct copy of the excerpted transcript of the trial testimony of UBS former employee Chris Salcedo in the above-captioned action.

8. Attached hereto as **Exhibit 5** is a true and correct copy of the excerpted transcript of the trial testimony of UBS employee Giselle Tropper in the above-captioned action.

9. Attached hereto as **Exhibit 6** is a true and correct copy of the “Notice of Early Termination Amount Due Under 2002 ISDA Master Agreement, Liquidation of the PB Agreements Collateral and Application of Proceeds of Collateral Held in Accordance with the PB Agreements” from UBS to Archegos, dated May 12, 2021 (“Early Termination Notice”) and Appendices, introduced at trial in the above-captioned action as Government Exhibit 2189.

10. Following the liquidation and termination of Archegos’s swap account at UBS, UBS engaged in an informal dispute resolution process with Archegos, pursuant to which UBS recovered **\$66,252,554.73** from Archegos. UBS retained the right to obtain additional recovery, including via restitution in this case. This amount was paid in various tranches on five dates between December 2021 and December 2023:

Date	Amount
12/31/2021	\$8,404,033.29
12/22/2022	\$20,178,068.28
02/15/2023	\$34,667,703.58
03/30/2023	\$1,525,143.37
12/29/2023	\$1,477,606.21
Total USD	\$66,252,554.73

11. At my request on behalf of UBS, an economist at Cornerstone Research calculated the interest for the period between May 12, 2021 and September 30, 2024, and concluded that the amount is \$114,634,885.93, using the rate “equal to the weekly average 1-year constant maturity Treasury yield . . . for the calendar week preceding the first day on which the defendant is liable for interest.” *United States v. Smerling*, No. 21 Cr. 317 (DLC), 2022 WL 1806300, at *2 (S.D.N.Y. June 1, 2022) (Cote, J.); *United States v. Glencore Int’l A.G.*, No. 22 Cr. 297 (LGS), 2023 WL 2242469, at *9 (S.D.N.Y. Feb. 27, 2023) (Schofield, J.). The 1-year constant maturity rate for the week ending September 27, 2024, used by Cornerstone in this calculation, was 3.908%. In calculating prejudgment interest of \$114,634,885.93 for the period between May 12, 2021 through September 30, 2024, the economist applied this 3.908% interest rate to UBS’s loss of \$860,268,783.00, and accounted for the five distributions, and the consequent reductions in principal, referenced in paragraph 10, above. Accordingly, the economist calculated UBS’s total restitution claim to be **\$908,651,114.20**, comprised of UBS’s loss of **\$860,268,783.00**, plus prejudgment interest of **\$114,634,885.93**, minus recoveries totaling **\$66,252,554.73**. I was informed of this interest rate and these calculations as of the date of this Declaration.

I declare under penalty of perjury that the foregoing is true and correct.

Dated: September 30, 2024

New York, NY

/s/ Alan J. Brudner

Alan J. Brudner
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New York, NY 10020-1605
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212.940.6362

Attorney for UBS

EXHIBIT 1

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1 UNITED STATES DISTRICT COURT
2 SOUTHERN DISTRICT OF NEW YORK

3 -----x
4 UNITED STATES OF AMERICA,

5 v.

22 CR 240 (AKH)

6 SUNG KOOK HWANG and PATRICK
7 HALLIGAN,

8 Defendants.

Trial

9 -----x

New York, N.Y.
May 21, 2024
10:10 a.m.

Before:

HON. ALVIN K. HELLERSTEIN,

District Judge
-and a jury-

APPEARANCES

DAMIAN WILLIAMS,

United States Attorney for the
Southern District of New York

BY: MATTHEW D. PODOLSKY

ANDREW M. THOMAS

ALEXANDRA ROTHMAN

SAMUEL ROTHSCHILD

Assistant United States Attorneys

FRIEDMAN KAPLAN SEILER ADELMAN & ROBBINS LLP
Attorneys for Defendant Halligan

BY: MARY MULLIGAN

TIMOTHY HAGGERTY

BONNIE BAKER

ANIL VASSANJI

RUPITA CHAKRABORTY

KRAMER LEVIN NAFTALIS & FRANKEL LLP
Attorneys for Defendant Hwang

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JORDAN L. ESTES

MICHAEL MARTINEZ

MICHELLE BEN-DAVID

SHAKED SIVAN

DAYNA CHIKAMOTO

O5LVHWA1

APPEARANCES (Continued)

Also Present: Anna Gamboa, USAO Paralegal
Arjun Ahuja, USAO Paralegal
Madeline Sonderby, USAO Paralegal
Raymond McLeod, Defense Trial Consultant

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Becker - Direct

1 If we can leave up what we have, and if you can just
2 scroll on the right side on to Page 3.

3 Mr. Becker's message to Mr. Halligan, starting on --
4 go back to where you were. Thank you. 2:05 down to 2:05:46.
5 And, Ms. Gamboa, I'll ask you to highlight Mr. Becker's message
6 to Mr. Tomita. Now it says 2:04, but with UTC, this is about
7 10:04 p.m., if it comes up with UBS, remember we gave them the
8 following liquidity recently: 50 percent in 10 days,
9 25 percent in 20 days, entire book in five weeks. Mr. Tomita
10 says thanks.

11 THE COURT: These are Becker's communication to
12 Tomita?

13 MS. ROTHMAN: Yes, your Honor. And at 10:05 p.m.
14 which is listed as 2:05, Mr. Becker writes to Mr. Halligan, "I
15 just gave Will the heads up. This is the liquidity profile
16 we've given them recently, 50 percent in 10 days, 25 percent in
17 20 days, entire book in five to six weeks. A few weeks back."
18 And Mr. Halligan writes, okay.

19 BY MS. ROTHMAN:

20 Q. Why did you provide Mr. Halligan and Mr. Tomita with this
21 information in advance of the UBS call?

22 A. I expected this may be a question that UBS would ask. And
23 the mandate on any communications with brokers was for
24 information to be consistent.

25 Q. Was this information false?

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Becker - Direct

1 A. This information was false, yes.

2 MS. ROTHMAN: Your Honor, this might be a good time to
3 break for the day, with the Court's permission.

4 THE COURT: Sure.

5 All right, members of the jury, we'll see you tomorrow
6 morning at 10:00 o'clock. One minute.

7 (Pause)

8 THE COURT: Come in at 10:15 tomorrow, I understand a
9 juror has a medical appointment, requiring us to stop at four,
10 so we'll stop at 4:00 tomorrow. 10:15 tomorrow morning, close
11 your book, give it to Ms. Jones, don't discuss the case, keep
12 an open mind.

O5MsHWA1

1 UNITED STATES DISTRICT COURT
2 SOUTHERN DISTRICT OF NEW YORK

3 -----x
4 UNITED STATES OF AMERICA,

5 v.

22 CR 240 (AKH)

6 SUNG KOOK HWANG and PATRICK HALLIGAN,

7 Defendants.
8 -----x

New York, N.Y.
May 22, 2024
10:15 a.m.

9 Before:

10 HON. ALVIN K. HELLERSTEIN,

11 District Judge
-and a jury-

12 APPEARANCES

13 DAMIAN WILLIAMS,

14 United States Attorney for the
Southern District of New York

15 BY: MATTHEW D. PODOLSKY

16 ANDREW M. THOMAS

ALEXANDRA ROTHMAN

SAMUEL ROTHSCHILD

Assistant United States Attorneys

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MICHELLE BEN-DAVID

25 SHAKED SIVAN

DAYNA CHIKAMOTO

O5MsHWA1

APPEARANCES (Continued)

ALSO PRESENT:

Anna Gamboa, USAO Paralegal

Arjun Ahuja, USAO Paralegal

Madeline Sonderby, USAO Paralegal

Raymond McLeod, Defense Trial Consultant

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Becker - Direct

1 (Jury present)

2 THE COURT: Good morning, members of the jury.

3 THE JURY: Good morning.

4 THE COURT: Let's all be seated.

5 Mr. Becker remains on the stand. I remind you you're
6 under oath.

7 SCOTT BECKER, resumed.

8 Ms. Rothman will continue with direct examination.

9 MS. ROTHMAN: Thank you, your Honor.

10 DIRECT EXAMINATION

11 BY MS. ROTHMAN:

12 Q. Mr. Becker, before we broke yesterday, you were talking
13 about messages you had sent to Mr. Halligan and Mr. Tomita with
14 information about Archegos' portfolio.

15 Do you remember that?

16 A. Yes, I do.

17 Q. And it was in advance of the call with UBS on Wednesday
18 night, right?

19 A. Yes.

20 Q. Focusing on that call, who from Archegos spoke to UBS?

21 A. On that call, Mr. Mills had spoken substantially the same
22 statements that were made in the prior calls with brokers, and
23 there was some back and forth between UBS and primarily
24 Mr. Mills and Mr. Tomita.

25 Q. After the call with UBS, did you speak with Mr. Halligan?

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Becker - Direct

1 A. Yes, I did.

2 Q. Was that by phone?

3 A. Yes, it was by phone.

4 Q. While you were on the phone with Mr. Halligan, what
5 happened?

6 A. While I was on the phone with him, I had an incoming call
7 coming into my phone. I didn't recognize the number, but I
8 thought it could be Mr. Tomita. So I hung up with Mr. Halligan
9 and picked up the incoming call.

10 Q. Who was the call from?

11 A. It was from Scott Alpaugh, the relationship manager at UBS.
12 He was just on the call that we had.

13 Q. What did Mr. Alpaugh ask you?

14 A. He had asked me for some additional caller of what was
15 going on at Archegos.

16 Q. What did you tell Mr. Alpaugh?

17 A. I told him that I couldn't comment further than what was
18 already discussed.

19 Q. While you were on phone with Mr. Alpaugh, were you in
20 communication with Mr. Halligan?

21 A. Yes, I was, via Bloomberg chat.

22 Q. What did you tell Mr. Halligan?

23 A. I told him that Mr. Alpaugh had called.

24 Q. Did you say anything else?

25 THE COURT: One minute.

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Becker - Direct

1 (Pause)

2 You were asked to recount the conversation on
3 BlackBerry with Mr. Halligan

4 MS. ROTHMAN: Thank you, your Honor.

5 A. So the Bloomberg chat between Mr. Halligan and I, I had
6 stated that I was deflecting. And Mr. Halligan had said if
7 he's giving you a problem on calling back the excess cash, just
8 tell him that's what we do every day.

9 Q. Can you remind us what Mr. Halligan was referring to when
10 he said calling back the excess cash?

11 A. Yes.

12 So earlier in the day, in order for Archegos to meet
13 its margin calls, we had to call back the excess cash from
14 other counterparties that was out there, that substantially all
15 of that excess cash that was available in order to meet the
16 large calls that Archegos had to pay that day.

17 Q. Was it accurate that Archegos' calling back the cash that
18 day was how it had typically interacted with its brokers?

19 A. Not in the manner that with it was done that day.

20 Typically Archegos would -- the operations team would go
21 through a process where we would see the excess cash balances
22 that were out of brokers, depending on trade activity and
23 market movement on that particular day. It would be more no
24 leave excess cash at those brokers, but it would not be normal
25 to call back substantially all of that excess cash, which is

O58sHWA5

Becker - Direct

1 what Archegos did that day.

2 Q. I want to turn to Thursday morning, Mr. Becker.

3 Did you join a call with Macquarie on Thursday
4 morning?

5 THE COURT: Thursday, March 25, members of the jury.

6 MS. ROTHMAN: Thank you, your Honor.

7 A. Yes, I did.

8 Q. Around what time was the call?

9 A. 7:30 a.m.

10 Q. Who from Archegos joined?

11 A. On that call from Archegos, it was the same individuals
12 that were on the prior calls. So it was Mr. Mills,
13 Mr. Halligan, Mr. Tomita, myself, and I believe David, Mr. Eun,
14 was also on the call.

15 Q. Did you take notes of who said what?

16 A. Yes, I did.

17 Q. Were you in touch with Mr. Halligan that morning as well?

18 A. Yes, I was, via Bloomberg chat.

19 Q. Do you recall Mr. Halligan sent you messages during the
20 Macquarie call?

21 A. Yes, he did.

22 MS. ROTHMAN: If we can pull up what is in evidence as
23 Government Exhibit 2521-T just for a moment. We already heard
24 this transcript, so we actually have not heard it.

25 So, your Honor, at this time, I'm going to offer 2521.

EXHIBIT 2

1 UNITED STATES DISTRICT COURT
2 SOUTHERN DISTRICT OF NEW YORK

3 UNITED STATES OF AMERICA,

4 v.

22 CR 240 (AKH)

5 SUNG KOOK HWANG and PATRICK
6 HALLIGAN,

Defendants.

Trial

7 New York, N.Y.
8 June 17, 2024
10:00 a.m.

9 Before:

10 HON. ALVIN K. HELLERSTEIN,

11 District Judge
-and a jury-

12 APPEARANCES

13 DAMIAN WILLIAMS,

United States Attorney for the
Southern District of New York

14 BY: MATTHEW D. PODOLSKY

ANDREW M. THOMAS

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APPEARANCES (Continued)

Also Present: Anna Gamboa, USAO Paralegal
Arjun Ahuja, USAO Paralegal
Madeline Sonderby, USAO Paralegal
Raymond McLeod, Defense Trial Consultant

1 MR. BERKE: Objection, your Honor.

2 THE COURT: Overruled.

3 A. Yes. It was like a daily -- during this October 2020
4 through March 2021, it was a daily conversation multiple times
5 throughout the day even.

6 Q. Now, in this time period was there -- do you recall any
7 times where you spoke with someone at Archegos other than
8 Mr. Hwang about providing misleading information to a
9 counterparty?

10 MR. BERKE: Your Honor, I would object to the way it's
11 phrased --

12 THE COURT: Overruled.

13 A. Yes.

14 Q. Who?

15 A. Patrick Halligan and Scott Becker.

16 Q. Was that with respect to a particular counterparty?

17 A. Yes. The instance I'm thinking of, yes.

18 Q. What counterparty?

19 A. UBS.

20 Q. And were you seeking capacity from UBS at that time?

21 A. Yes, that is correct.

22 MR. PODOLSKY: Can we pull up for the witness what's
23 already in evidence --

24 THE COURT: What did you say to Mr. Halligan?

25 THE WITNESS: With the conversation I'm thinking of,

it was a three-way conversation between -- on Zoom between myself, Patrick Halligan, and Scott Becker about how to respond to an information request from UBS.

THE COURT: Elicit the conversation, please.

MR. PODOLSKY: Sure. Your Honor, I was going to help put a time frame on it.

Q. How did that conversation come to happen?

A. It was -- Bill had directed us to get more capacity from UBS, and subsequent to asking UBS for the additional capacity increase, UBS had been communicating directly with Scott Becker about a request for more information, and it was information that we knew was very sensitive, so Scott, Patrick, and myself convened on Zoom to discuss how to answer it.

Q. Do you remember approximately when this was?

A. This was early, mid March 2021.

Q. We can look at a document. Let's go through the conversation.

What was the information that UBS was seeking at that time from Archegos?

A. They were asking us for, in substance, information about the risk profile of Archegos, namely, how long it would take -- like information about unwinding about how long it would take to unwind the portfolio.

Q. What was the purpose of three of you discussing that answer or that question, I should say?

1 A. I'm sorry?

2 Q. What was the purpose of the three of you, Mr. Halligan,
3 Mr. Becker and yourself, discussing together that question?

4 A. Well, we knew per Bill's directive that we needed the
5 capacity. UBS had presented us like with the requests for this
6 additional information in order to get the capacity. I
7 certainly knew that if we had answered what they were looking
8 for truthfully that UBS would probably not only -- they
9 wouldn't even give us the capacity; they would probably like
10 fire us as a client and unwind the portfolio. So it was a
11 conundrum of, what do we do so that we can get the capacity
12 without providing this information.

13 Q. Why? What was the truthful information --

14 THE COURT: What was said to whom? Did you say this
15 to anybody, what you just told us?

16 THE WITNESS: Leading up to this conversation, we had
17 emailed back and forth. What I just said specifically, I
18 didn't detail it that way. I don't remember the exact exchange
19 of what we said.

20 THE COURT: In substance, what did you say to
21 Mr. Becker and Mr. Halligan?

22 THE WITNESS: Leading up to the conversation?

23 THE COURT: During the conversation. Leading up to
24 the conversation.

25 THE WITNESS: Leading up to it.

1 I believe we did it on email and, essentially, from my
2 recollection, it was there is no way we can answer these
3 questions.

4 THE COURT: Who said that?

5 THE WITNESS: I don't know if it was myself or Patrick
6 or Scott. But I don't remember.

7 THE COURT: What was the answer?

8 Mr. Podolsky.

9 Q. Let's just focus right now on the oral conversation and
10 then we can talk about the email.

11 In the Zoom between the three of you, what did you
12 say?

13 A. So on the Zoom at this point we were discussing how do we
14 respond to this request for information about how long it would
15 take to unwind the portfolio. I remember I broached the
16 subject of, well, what if we give them like liquidity tranches,
17 like a certain amount in two weeks, we could unwind X percent
18 of the portfolio and then after another amount of time X
19 percent, and then another amount of time. I remember broaching
20 that idea to Scott and Patrick.

21 Q. What did Mr. Halligan say?

22 A. He responded like, there you go, we can try that. And then
23 he proceeded to outline -- I remember him using his hands also
24 in the different tranches. He outlined an unwind profile that
25 we could tell UBS -- I think I remember the details. He said:

1 Half of the portfolio we could unwind in two weeks. And then
2 the next 25 percent, that would take another two weeks. Then
3 the remaining 25 percent, that could be unwind in an additional
4 two weeks.

5 Q. Was that accurate?

6 A. No, not at all.

7 Q. Can you explain that.

8 A. At this point --

9 THE COURT: Before you do that, what did you say to
10 Mr. Halligan when he gave you the analysis?

11 THE WITNESS: I remember I was looking -- because I
12 was in front of my computer, I was looking at the portfolio and
13 I remember thinking -- I said, I guess that makes sense if we
14 take into account the index hedges, which were very liquid and
15 easy to unwind, and if we do block trades. I remember saying
16 that.

17 Q. Then what happened?

18 A. Then we all kind of -- we agreed that that's what we would
19 do. I remember Scott looked very uncomfortable and he said,
20 OK. And then that was the end of the conversation.

21 Q. Was the three tranches with the figures you just said
22 relayed to UBS?

23 A. I know that they were. I don't know if I was -- I don't
24 think I was in that communication when it happened.

25 Q. Why were those numbers inaccurate?

1 MR. HAGGERTY: Objection.

2 THE COURT: Overruled.

3 He said so before.

4 Were they inaccurate?

5 THE WITNESS: They were inaccurate.

6 THE COURT: Why were they inaccurate?

7 THE WITNESS: Because at that point in time there was
8 maybe 10 or so of these large long positions, like Viacom and
9 GSX, that were so big and so many days volume that it would
10 take months, if not years, to sell those positions in the
11 market. And then also when you're talking about -- there is a
12 very general industry standard. When you're talking between
13 like risk people and unwind parameters, you're assuming your 10
14 percent of volume. If you're taking that 10 percent of volume
15 into account, it would literally have taken months, if not
16 years, to sell down the portfolio.

17 THE COURT: You mentioned index funds. What was that
18 about?

19 THE WITNESS: Yes. In conjunction to get capacity at
20 the banks, I had discussed this ongoingly with Bill, but some
21 of the banks had wanted us to maintain certain level of short
22 exposure in order to get the long capacity. And the way and
23 practice that we were achieving that was by shorting
24 broad-based indexes, like the S&P 500 or similar types of
25 products. They are very, very easy to trade. Like one of the

ETFs, it's called Spy. It's S&P 500 ETF. It trades like billions -- like tens of billions of dollars a day, I believe, from my recollection. Those index funds, those can be unwound very, very quickly.

MR. HAGGERTY: Objection, your Honor. Move to strike the witness' testimony regarding the understanding of risk officers.

THE COURT: Overruled.

Q. Did UBS give additional capacity after that information was relayed to them?

A. Yes, they did.

Q. And was that capacity used by Archegos to trade?

A. Yes, it was.

Q. Who directed that trading?

A. Bill directed that trading.

MR. PODOLSKY: Now I'd like to just step back for a moment and pull up what's in evidence as Government Exhibit 2191. Maybe just blow up the top half of this email.

Q. Mr. Tomita, do you recognize this email exchange?

A. Yes, I do.

Q. Do you see that it's between you, Mr. Becker, and Mr. Halligan?

A. Yes.

Q. Was this exchange the email exchange you had referenced a few minutes ago as occurring before the Zoom call?

EXHIBIT 3

O59sHWA1

1 UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

2 -----x
3 UNITED STATES OF AMERICA,

4 v.

22 CR 240 (AKH)

5 SUNG KOOK HWANG and PATRICK HALLIGAN,

6 Defendants.

7 -----x

New York, N.Y.
May 9, 2024
5:15 p.m.

8 Before:

9 HON. ALVIN K. HELLERSTEIN,

10 District Judge
11 -and a jury-

12 APPEARANCES

13 DAMIAN WILLIAMS,

14 United States Attorney for the
Southern District of New York

15 BY: MATTHEW D. PODOLSKY

16 ANDREW M. THOMAS

ALEXANDRA ROTHMAN

SAMUEL ROTHSCHILD

17 Assistant United States Attorneys

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DANI R. JAMES

23 JORDAN L. ESTES
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O59sHWA1

APPEARANCES (Continued)

ALSO PRESENT:

Anna Gamboa, USAO Paralegal

Arjun Ahuja, USAO Paralegal

Madeline Sonderby, USAO Paralegal

Raymond McLeod, Defense Trial Consultant

Conor O'Shea, FBI Special Agent

O586HWA3

Fairbanks - Direct

1 need to hear you.

2 THE COURT: Can you all hear him in the back of the
3 room?

4 Proceed.

5 MR. ROTHSCILD: Thank you, your Honor.

6 DIRECT EXAMINATION

7 BY MR. ROTHSCILD:

8 Q. Good afternoon, Mr. Fairbanks.

9 A. Good afternoon.

10 Q. Mr. Fairbanks, where were you employed during 2020 and
11 2021?

12 A. UBS.

13 Q. What's UBS?

14 A. UBS is a Swiss financial firm, investment bank, and wealth
15 manager.

16 Q. In the course of your employment at UBS, did you interact
17 with a client of UBS's called Archegos?

18 A. I did.

19 Q. Approximately when was the last time you interacted with
20 anyone at Archegos?

21 A. March 2021. The end of the month.

22 Q. How did UBS's relationship with Archegos come to an end?

23 A. We lost a little more than \$860 million through the
24 default.

25 Q. Mr. Fairbanks, during the final week that you interacted

0586HWA3

Fairbanks - Direct

1 with Archegos, what, if anything, did you come to understand
2 about information that Archegos had previously provided to you?

3 A. That the information was lies, that all the information
4 that they had shared with us was made up.

5 Q. Okay. Let's back up.

6 Mr. Fairbanks, where do you work presently?

7 A. Bank of Montreal.

8 Q. What do you do at Bank of Montreal?

9 A. I'm the head of prime brokerage risk management.

10 Q. And how long have you worked at Bank of Montreal?

11 A. Just short of two years.

12 Q. Where did you work before that?

13 A. UBS.

14 Q. And how long did you work at UBS?

15 A. Almost 17 years.

16 Q. What was your job at UBS?

17 A. My last job was the Americas head of prime brokerage risk.

18 Q. Is that effectively the same job that you do now at Bank of
19 Montreal?

20 A. Yes.

21 Q. You said you worked in prime brokerage at UBS?

22 A. I did.

23 Q. What does prime brokerage mean?

24 A. Prime brokerage is just a group within a bank that allows,
25 for the most part, hedge funds, family offices, asset managers

O586HWA3

Fairbanks - Direct

1 to trade seamlessly to allow them to take leverage. Similar,
2 if you had an E-Trade account, you're able to buy stock and
3 only put up some of the money, but a prime brokerage allows you
4 to trade with E-Trade, Charles Schwab, any other firm on the
5 street. But we would end up taking all the trades and holding
6 them.

7 Q. Now, we'll come back to a lot of those concepts later.

8 As it relates to the prime brokerage business, what
9 purpose does the risk function serve?

10 A. My team's job is responsible, frankly, just to make sure we
11 don't take a loss dealing with our clients.

12 Q. What do you mean by "take a loss"?

13 A. As I mentioned earlier, we lost \$860-plus million. My team
14 is to build mathematical models, to build a lot of formulas, to
15 analyze a lot of data, to predict what could happen in a very
16 bad market, and make sure that we end up not taking a loss if
17 those bad markets occur.

18 Q. So what sorts of products or services does prime brokerage
19 offer its clients?

20 A. So UBS, we covered stocks, bonds, commodities, so gold,
21 oil, so futures, we did options. You can do currencies,
22 foreign currencies. There are yen, the British sterling,
23 pounds.

24 Q. What's a stock?

25 A. A stock is ownership of -- owning a stock allows you to own

05D6HWA5

Fairbanks - Direct

1 A. So at that point we -- I mean, he could have, you know,
2 couple percent to 5 percent of a company with UBS in some of
3 these names, but if he had those sized positions with everyone
4 else on the street, it would imply he had 20 to 50 percent
5 ownership of a lot of these companies.

6 Q. What do you mean by "everyone else on the street"?

7 A. If he had these positions with his other providers, his
8 other banks.

9 Q. Why would that be significant if he did?

10 A. You can't get out of a position that big.

11 Q. Why not?

12 A. Not too many people are willing to write a check for
13 \$50 billion to buy half a company. It's just too big.

14 Q. Now, we heard in that call that Mr. Becker told you that
15 Archegos' top position was 35 percent of capital. Right?

16 A. Yes.

17 Q. And we heard in that call that based on the information --

18 THE COURT: 35 percent of capital means 35 percent of
19 what?

20 THE WITNESS: Equity.

21 THE COURT: Of equity of one place or total?

22 THE WITNESS: Total.

23 MR. ROTHSCHILD: Thank you, your Honor.

24 BY MR. ROTHSCHILD:

25 Q. And we heard in that call that based on the information

O5D6HWA5

Fairbanks - Direct

1 Mr. Becker provided you, you calculated that Archegos' top
2 position was about \$7 billion, and you believed it was not a
3 name that UBS held. Right?

4 A. Other than Viacom, correct.

5 Q. Mr. Fairbanks, how would it have mattered from a risk
6 perspective, if at all, if Mr. Becker had told you that
7 Archegos' top position at that time was actually more than
8 75 percent of capital rather than 35 percent?

9 A. We probably would have hit the panic button, reached out to
10 senior management to alert them of the -- how much risk -- how
11 much more risk we were taking than we thought. We would raise
12 margins on the client and potentially ask them to leave, and
13 we'd fire the client.

14 Q. And how would it have been relevant from a risk perspective
15 if Mr. Becker had told you that on March 8, 2021, Archegos held
16 the equivalent of over \$19 billion worth of Viacom?

17 A. We would have been horrified because that would have been,
18 I don't know, 40 percent of the company. I mean a big position
19 of owning a company is 5. So to own 40 percent of a company is
20 monstrous. And you're taking leverage. Like most companies
21 that buy other companies, they don't use a lot of leverage to
22 do it, maybe ten percent, 20 percent, not 500 percent.

23 MR. ROTHSCHILD: Ms. Gamboa, can you please pull up
24 only for Mr. Fairbanks what's been marked for identification as
25 Government Exhibit 2139?

EXHIBIT 4

O5TRHWA1

1 UNITED STATES DISTRICT COURT
2 SOUTHERN DISTRICT OF NEW YORK

3 -----x
4 UNITED STATES OF AMERICA,

5 v.

22 CR 240 (AKH)

6 SUNG KOOK HWANG and PATRICK
7 HALLIGAN,

8 Defendants.

9 -----x

New York, N.Y.
May 29, 2024
10:00 a.m.

10 Before:

11 HON. ALVIN K. HELLERSTEIN,

District Judge
-and a jury-

12 APPEARANCES

13 DAMIAN WILLIAMS,

United States Attorney for the
Southern District of New York

14 BY: MATTHEW D. PODOLSKY

ANDREW M. THOMAS

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MICHELLE BEN-DAVID

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O5TRHWA1

APPEARANCES (Continued)

ALSO PRESENT:

Anna Gamboa, USAO Paralegal

Arjun Ahuja, USAO Paralegal

Madeline Sonderby, USAO Paralegal

Raymond McLeod, Defense Trial Consultant

O5T6HWA4

Salcedo - Direct

1 It is the difference between playing high school baseball and
2 playing the World Series.

3 Q. So would the risk presented by a position that was, to use
4 this one, 62.2 percent of capital, be different when the
5 capital is 23 billion, to use your number, versus 2 billion?

6 A. Absolutely. To use the analogy I just used, the players
7 are different, the money is different and the gravity of the
8 situation is different. It would be different but it -- and
9 the case of Amazon, at least it's a mega-cap stock. And at
10 least we -- if there were \$23 billion, we would want them
11 invested in these mega-cap stocks.

12 Q. Why is that?

13 A. Because if they were invested -- at \$23 billion, if you're
14 not -- and with the amount of leverage Archegos took, if you're
15 not invested in the mega-cap stocks, then you run the risk of
16 having severe liquidity issues when you go to either monetize
17 those assets or as a lender when you go to liquidate those
18 assets to pay yourself back.

19 It's a significant risk, it's a risk we discussed
20 explicitly with Scott Becker on recorded conversations. And he
21 explicitly told us he understood our concerns and that he
22 confirmed that he was, in fact, invested in these highly liquid
23 names in March of 2021.

24 Q. So we'll get there. Before we do, I want to just look at
25 one other set of information that was provided by Archegos to

1 UNITED STATES DISTRICT COURT
2 SOUTHERN DISTRICT OF NEW YORK

3 -----x
4 UNITED STATES OF AMERICA,

5 v.

22 CR 240 (AKH)

6 SUNG KOOK HWANG and PATRICK
7 HALLIGAN,

8 Defendants.

9 -----x

New York, N.Y.
May 30, 2024
10:00 a.m.

11 Before:

12 HON. ALVIN K. HELLERSTEIN,

13 District Judge
14 -and a jury-

15 APPEARANCES

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17 United States Attorney for the
18 Southern District of New York

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ALSO PRESENT:

Anna Gamboa, USAO Paralegal

Arjun Ahuja, USAO Paralegal

Madeline Sonderby, USAO Paralegal

Raymond McLeod, Defense Trial Consultant

O5U6HWA2

Salcedo - Cross

1 And our portfolio was not replicated in other
2 brokerage --

3 THE WITNESS: Across other brokers.

4 DEPUTY CLERK: We can't hear you.

5 THE COURT: And our portfolio was not replicated
6 across other brokers; is that right?

7 THE WITNESS: Correct, your Honor. Thank you.

8 MS. ESTES: Mr. McLeod, can we pull up Government
9 Exhibit 2140? And let's go to the second page.

10 BY MS. ESTES:

11 Q. I think we looked at this earlier, this is your e-mail to
12 Mr. Becker where you're asking specifically about the positions
13 they have at UBS, correct?

14 A. Yes.

15 Q. And let's go to the e-mail above it. And Mr. Becker tells
16 you expressly that they can't comment about position sizes away
17 from UBS, correct?

18 A. Yes.

19 MS. ESTES: And let's go to the page before that.

20 And let's actually zoom out, Mr. McLeod. Zoom into
21 the bottom two.

22 BY MS. ESTES:

23 Q. And when you try again to get color on the top names,
24 Mr. Becker tells you that if you have liquidity profile
25 concerns you could charge them higher margin rates, right?

O5U6HWA2

Salcedo - Cross

1 A. I assure you we would have charged higher margin rates if
2 we knew that our portfolio was replicated across other brokers,
3 and that they weren't investing in highly liquid mega-cap
4 stocks. And that rate probably would have been around
5 100 percent, and we would have exited the fund if we knew that,
6 but we didn't know that. We are actually told -- we were told
7 something completely else that turned out not to be true.

8 THE COURT: Just hold on.

9 (Discussion off the record)

10 THE WITNESS: Is this not close enough also?

11 THE COURT: Just go ahead and testify.

12 BY MS. ESTES:

13 Q. Mr. Salcedo, on this e-mail, Mr. Becker says he can't
14 provide you the color, right, he doesn't provide you the
15 written positions?

16 A. I'm sorry, now I can't hear you. Can you say that again?

17 Q. In this e-mail, Mr. Becker refuses to provide you the
18 written positions, right?

19 A. That's right.

20 Q. And you could have fired him as a client at this point,
21 right?

22 A. We -- he did provide other risk representations and risk
23 statistics that are in, I think in these call logs here as
24 well.

25 Q. Let's look at another one of those, Government Exhibit

EXHIBIT 5

O5TRHWA1

1 UNITED STATES DISTRICT COURT
2 SOUTHERN DISTRICT OF NEW YORK

3 -----x
4 UNITED STATES OF AMERICA,

5 v.

22 CR 240 (AKH)

6 SUNG KOOK HWANG and PATRICK
7 HALLIGAN,

8 Defendants.

9 -----x

New York, N.Y.
May 29, 2024
10:00 a.m.

10 Before:

11 HON. ALVIN K. HELLERSTEIN,

District Judge
-and a jury-

12 APPEARANCES

13 DAMIAN WILLIAMS,

United States Attorney for the
Southern District of New York

14 BY: MATTHEW D. PODOLSKY

ANDREW M. THOMAS

ALEXANDRA ROTHMAN

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19 BY: BARRY H. BERKE

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DAYNA CHIKAMOTO

O5TRHWA1

APPEARANCES (Continued)

ALSO PRESENT:

Anna Gamboa, USAO Paralegal

Arjun Ahuja, USAO Paralegal

Madeline Sonderby, USAO Paralegal

Raymond McLeod, Defense Trial Consultant

O5TRHWA1

Direct - Tropper

1 their swap agreements with us.

2 THE COURT: It's dated May 12, 2021.

3 THE WITNESS: Yeah, so this -- this is the full
4 agreement -- this is the full termination, not the initial
5 notice, so this will have the calculation of what it cost us
6 and how much they owe us in it. So we had to know what it cost
7 us, first.

8 THE COURT: So this is after all liquidations?

9 THE WITNESS: Yes.

10 MR. PODOLSKY: That's exactly what I was going to ask,
11 your Honor. Thank you.

12 Q. So just to be clear, May 12 was after UBS had sold the
13 hedges that remained on its books; is that right?

14 A. Correct.

15 Q. And can you just explain why you'd have to wait until those
16 hedges are sold to provide this document?

17 A. The terms of the agreement state that when there's an early
18 termination that the client owes us any amount that was
19 outstanding plus any costs that it -- that we bore to unwind
20 the position or to liquidate the positions, the hedges.

21 Q. Okay. So I just want to make sure we understand those
22 terms. I think you first referred to amounts outstanding?

23 A. Yes.

24 Q. What is that?

25 A. Amount outstanding is -- so when we were describing before

O5TRHWA1

Direct - Tropper

1 with contracts where there's reset periods where you exchange
2 money, in between those reset periods, there's an outstanding
3 amount. So there's a value on the swap contracts that kind of
4 build up, and then you exchange cash at resets. In between
5 that, there's an outstanding amount. So there would have been
6 an outstanding amount there because we were in between resets
7 and also because there was a default.

8 Q. And when you say "default," are you referring to the fact
9 that Archegos failed to meet its margin call?

10 A. Yes.

11 Q. Okay. And then you said there's a second amount that
12 Archegos also owed you?

13 A. Yeah.

14 Q. Explain what that was.

15 A. That's what it costs us to liquidate our transactions.

16 Q. So if we turn to the attachment --

17 THE COURT: Isn't that double counting?

18 THE WITNESS: No. The first part is what they owed
19 us -- the first part is what they owe us up until today, let's
20 say. So it's, you know, what has happened historically and
21 then today is the termination date. The second part is after
22 the termination date. So it's what it cost us to remove our
23 hedges from our books, basically. So it's two periods in time.

24 BY MR. PODOLSKY:

25 Q. Let's see if we can make this practical. So if you have a

O5TRHWA1

Direct - Tropper

1 stock that starts at 100, drops to 50, there's a failed margin
2 call. Does the client now owe you the \$50?

3 A. Yeah.

4 Q. And now after that, if a default is called, UBS now has to
5 unwind its hedge itself, right?

6 A. Yeah.

7 Q. And so now, if the stock decreases another, say, \$25 before
8 UBS can unwind, does the client now owe you essentially the
9 full \$75 in loss?

10 A. Yes.

11 Q. And is that what you were referring to?

12 A. Yes.

13 Q. All right.

14 MR. PODOLSKY: So if we can now flip to the
15 attachment, and maybe let's start just by blowing up the whole
16 page to make it a little bigger. Don't worry. We'll zoom in
17 so we can actually read it.

18 BY MR. PODOLSKY:

19 Q. But do you recognize this attachment, Ms. Tropper?

20 A. Yes, I do.

21 Q. First of all, how do you recognize it?

22 A. I made this document.

23 Q. Okay. What does this document reflect?

24 A. It reflects what we just described, what Archegos owed us.

25 MR. PODOLSKY: So Ms. Gamboa, if you could blow up

O5TRHWA1

Direct - Tropper

1 just the top half, the chart and then the number just below it.
2 Perfect.

3 Q. Okay. I just want you to teach us how to interpret this
4 chart. Can you explain what the chart portion reflects?

5 A. Yeah, so this is the amount. So this is all the stocks
6 that we had on the book that were outstanding after we closed
7 the swap contracts. So these were the hedges that were
8 remaining. So in the example before, it's that last \$25
9 essentially. So the amounts are what it cost us from the price
10 that we closed the swap to the price that we achieved
11 liquidating the hedges.

12 Q. So if you see at the top, it says -- and sorry, it's still
13 a little small, but positive number equals money owed to UBS.
14 Do you see that?

15 A. Yes.

16 Q. And then on the right-hand column -- first of all, what is
17 the right-hand column, close out amount.

18 A. That's the amount per stock that it cost us to liquidate.

19 Q. Okay. And do you see that some of the numbers have a
20 parentheses around them and some don't?

21 A. Yes.

22 Q. Can you explain what the difference is?

23 A. The positive numbers are -- the positive numbers are where
24 Archegos owed us money, and the negative numbers are where we
25 owed Archegos money.

O5TRHWA1

Direct - Tropper

1 Q. Just to be clear, parentheses means a negative number,
2 correct?

3 A. Correct.

4 Q. And then down in the corner it says "total closeout
5 amount." Do you see that?

6 A. Yes.

7 Q. What does that reflect?

8 A. That was the full amount across the entire portfolio that
9 it cost us to liquidate the hedges.

10 Q. What was that amount?

11 A. Just over \$710 million.

12 Q. Okay.

13 MR. PODOLSKY: Ms. Gamboa, if we could now go to the
14 second chart and blow up just the second chart and just the
15 line below it. Okay.

16 BY MR. PODOLSKY:

17 Q. Okay. What is this chart?

18 A. This is the amount that was still outstanding on the swaps
19 when we closed them out. So this is the amount that Archegos
20 owed us on the day of the default notice.

21 Q. Okay. And I didn't ask this about the chart above, but for
22 each row in the chart, have you called out how much they owe on
23 each particular position?

24 A. Yeah.

25 Q. Okay. So, for example, on this part -- if we just look at,

O5TRHWA1

Direct - Tropper

1 say, discovery A, the third line.

2 A. Yeah.

3 Q. How much did Archegos owe UBS with respect to that
4 position?

5 A. It looks like \$100 million.

6 Q. We won't go through all of these, but the third from the
7 bottom, what position was that?

8 A. Viacom.

9 Q. And how much did Archegos owe UBS at the time of its
10 default on Viacom?

11 A. Just under \$318 million.

12 Q. And then if you look at the -- on the right, below the
13 chart, it says "total unpaid amounts." Do you see that?

14 A. Yeah.

15 Q. What does that number reflect?

16 A. That's the full number across the entire portfolio that was
17 owed at the time of default.

18 Q. And so how much was that?

19 A. Just under \$864 million.

20 THE COURT: Was that the loss?

21 THE WITNESS: Yes, that was what was owed.

22 THE COURT: So UBS lost how much?

23 THE WITNESS: Between those -- so there's a couple
24 more lines, I think, that describe the net amount because
25 there's a few more things that we have to calculate to add back

O5TRHWA1

Direct - Tropper

1 in. The total loss was \$860 million.

2 MR. PODOLSKY: Your Honor, I'll just show how that
3 calculation was done quickly.

4 Ms. Gamboa, if you go down to the rows at the bottom
5 below the charts. If you can blow that bottom right-hand
6 corner up.

7 BY MR. PODOLSKY:

8 Q. So if you can just -- Ms. Tropper, we can do this quickly,
9 if you can just walk you through what this calculation is here?

10 A. The top line is almost \$1.6 billion. That's the amount on
11 the swap that was owed. So that's the sum of the liquidation
12 cost and what was owed on the swap at the time of default. The
13 second line is posted collateral. So earlier on in the week,
14 right before default, there was an amount of money that we owed
15 based on positive moves in their portfolio. And Archegos
16 withdrew that. So that was \$174 million that was withdrawn.
17 So the net amount of that was \$1.748 billion.

18 And then below that, there's a few lines of collateral
19 that they would have posted to us through various accounts and
20 various forms. Those are the next three lines. And at the
21 bottom is the sum of collateral that we took ownership of and
22 the losses that we had.

23 Q. When you say "collateral that you took ownership of," were
24 those assets that UBS was holding for Archegos and took
25 possession of to pay down some of what Archegos owed it?

O5TRHWA1

Cross - Tropper

1 A. Yes.

2 Q. And so then what was the net? How much was the -- what was
3 the ultimate loss according to this calculation to UBS?

4 A. Just over \$860 million.

5 MR. PODOLSKY: Nothing further, your Honor.

6 THE COURT: Cross, Ms. Estes?

7 MS. ESTES: Thank you, your Honor.

8 CROSS-EXAMINATION

9 BY MS. ESTES:

10 Q. Good morning, Ms. Tropper, my name is Jordan Estes, and I
11 represent Bill Hwang.

12 A. Good morning.

13 Q. I want to go back to the trading that you discussed earlier
14 in your examination. So when a client of UBS puts on a swap,
15 it's -- the hedge is what's actually executed in the market; is
16 that right?

17 A. Correct.

18 Q. And the hedge is UBS's hedge; is that right?

19 A. Correct.

20 Q. Okay. The swap itself is not traded on the New York stock
21 exchange, do I have that right?

22 A. Correct.

23 Q. And in terms of, I believe, Mr. Podolsky asked you a little
24 bit about market impact. In terms of market impact, if there
25 is any, it's the hedge that has the impact, right?

EXHIBIT 6



1285 Avenue of the Americas
8th FL
New York, NY 10019
www.ubs.com

By UPS and Email

May 12, 2021

Archegos Fund, LP
C/O Archegos Capital Management, LP
888 Seventh Avenue, 38th Floor
New York, NY 10019
Attention: Scott V. Becker

With a copy to:
King & Spalding
Attention: Arthur Steinberg

**Re: NOTICE OF EARLY TERMINATION AMOUNT DUE UNDER 2002 ISDA MASTER AGREEMENT,
LIQUIDATION OF THE PB AGREEMENTS COLLATERAL AND APPLICATION OF PROCEEDS OF
COLLATERAL HELD IN ACCORDANCE WITH THE PB AGREEMENTS**

Dear Sirs:

We are writing to you with respect to:

- the ISDA Master Agreement, dated as of February 4, 2020, between UBS AG and Archegos Fund, LP ("**Counterparty**" or "**you**"), as amended (the "**ISDA Master Agreement**");
- the Client Account Agreement ("**CAA**") between UBS Securities LLC ("**UBS LLC**") and Counterparty, and
- the Margin Loan, Securities Loan and Foreign Exchange Agreement ("**MLSLFX**") between UBS AG and Counterparty (together with the CAA, the "**PB Agreements**" and UBS AG and UBS LLC together "**UBS**" or "**we**")

In each case, the forgoing includes all amendments, annexes, schedules, confirmations, and notices pertaining to the agreement.

ISDA Master Agreement – Net Early Termination Amount and Application of Collateral

All capitalized terms not otherwise defined in this section shall have the meanings set out in the ISDA Master Agreement.

You were notified on March 27, 2021 of the occurrence of one or more Event of Defaults under the ISDA Master Agreement, including on account of your failure to make margin payments on both March 25, 2021 and March 26, 2021 under the PB Agreements and the designation of March 29, 2021 as Early Termination Date.

Pursuant to Section 6(d) of the ISDA Master Agreement, you are hereby notified that the Net Early Termination Amount payable by you to UBS, following the close out of the ISDA Master Agreement, is \$1,748,542,506. This amount consists of the Early Termination Amount, which was then adjusted, pursuant to Paragraph 8 of the Credit Support Annex to the Schedule to the ISDA Master Agreement, to reflect the Posted Collateral (VM) posted by UBS AG to Counterparty, as so adjusted, the "**Net Early Termination Amount**". In addition, we have exercised our remedies under the PB Agreements and applied the cash and proceeds of the securities collateral liquidation to the Net Early Termination Amount, as more fully described below.

**GOVERNMENT
EXHIBIT
2189
22 Cr. 240 (AKH)**

**CONFIDENTIAL TREATMENT
REQUESTED BY UBS**

UBSARCH0000041

In accordance with Section 6(d) of the ISDA Master Agreement, Annex 1 hereto provides a statement detailing relevant calculations made, and specifies the Early Termination Amount and the Net Early Termination Amount.

PB Agreements - Liquidation and Application of the Collateral

All capitalized terms not otherwise defined in this section shall have the meanings set out in the PB Agreements.

You were notified on March 27, 2021 of the occurrence of a Default under the PB Agreements which resulted in UBS exercising remedies, including without limitation, pursuant to Section 3(c) of the CAA and the same Section incorporated by reference into the MSLFX. Annex 2 hereto provides a statement detailing the proceeds UBS received from the liquidation of non-cash Collateral¹ (“UBS LLC Proceeds Amount”).

Pursuant to the terms of the PB Agreements, including without limitation Sections 2 and 3 of the CAA, and the same Sections incorporated by reference into the MSLFX, UBS AG, as secured party, has applied the UBS LLC Proceeds Amount and other cash constituting Collateral¹ under the PB Agreements to the Obligations you incurred to UBS AG under the ISDA Master Agreement, as described above and reflected in the Net Early Termination Amount.

ISDA Master Agreement and PB Agreements – UBS Termination Amount

The amount so calculated and reflecting the exercise of UBS’s close-out of the ISDA Master Agreement and the PB Agreements, but subject to interest charges and additional amounts noted in the immediately following section, is **\$860,268,783** and is reflected in Annex 1 as the “UBS Termination Amount”.

The UBS Termination Amount is due upon receipt of this Notice, pursuant to Section 6(d) of the ISDA Master Agreement. Payment details are provided in Annex 3 hereto.

ISDA Master Agreement and PB Agreements – Additional Amounts

This statement does not include amounts that we have incurred under Section 11 of the ISDA Master Agreement and Sections 3(d) and 18 of the CAA, and the same Sections incorporated by reference into the MSLFX, including but not limited to legal fees and other reasonable out-of-pocket expenses incurred by reason of the enforcement and protection of our rights under the ISDA Master Agreement and PB Agreements and/or by reason of the early termination of the Transactions and liquidation of collateral, including, but not limited to, costs of collection.

The UBS Termination Amount will continue to accrue interest at the Default Rate until paid in full.

UBS and its affiliates hereby expressly reserve all other rights and remedies that we may have at law, in equity, under the ISDA Master Agreement and PB Agreements or any other agreement between you or any of your affiliates and UBS or any of our affiliates, or otherwise (including, without limitation, any rights of set-off, consolidation of accounts or netting) and nothing that we and/or our affiliates may have done constitutes a waiver of such rights and remedies. UBS reserves the right to supplement this notice with respect to additional amounts describe above.

¹ As reflected in Annex 1, such cash consists of UBS LLC other cash and UBS AG prime brokerage cash, in each case as held pursuant to the PB Agreements.

If you have any questions regarding the foregoing please contact Richard Niemeyer at 212-713-8394 or Lisa Rosenthal at 212-821-2115.

Yours faithfully,

UBS AG

By: *Lisa Rosenthal*
Name: Lisa Rosenthal
Title: Executive Director & Counsel

UBS AG

By: *Richard Niemeyer*
Name: Richard Niemeyer
Title: Executive Director and Counsel

UBS Securities LLC

By: *Lisa Rosenthal*
Name: Lisa Rosenthal
Title: Executive Director & Counsel

UBS Securities LLC

By: *Richard Niemeyer*
Name: Richard Niemeyer
Title: Executive Director and Counsel

Annex I

Summary of Early Termination Amount
Archegos Fund, LP

Positive number = money owed to UBS

Outstanding Trades

CIS Code	Swap ID	RIC	Currency	Close-Out Amount (USD)
8394691	463666	BIDU.OQ	USD	187,302
8394691	463666	CP8.N	USD	4,548,549
8394691	463666	DISCA.OQ	USD	77,475,116
8394691	463666	DISCK.OQ	USD	6,361,280
8394691	463666	FEM.P	USD	28,473,365
8394691	463666	FTCH.N	USD	9,126,058
8394691	463666	FJBO.N	USD	873
8394691	463666	FUTU.OQ	USD	389,277,681
8394691	463666	FXI.P	USD	26,387,546
8394691	463666	GIS.N	USD	2,140,788
8394691	463666	GSX.N	USD	311,874,528
8394691	463666	IQ.OQ	USD	100,204,643
8394691	463666	K.N	USD	(1,139,792)
8394691	463666	KHC.OQ	USD	21,052,761
8394691	463666	LC.N	USD	(10,318,899)
8394691	463666	RKT.N	USD	5,947,244
8394691	463666	SIM.N	USD	12,900,625
8394691	463666	SPY.P	USD	23,077,581
8394691	463666	TCBL.OQ	USD	(67,710,777)
8394691	463666	TME.N	USD	(42,446,249)
8394691	463666	VIAC.OQ	USD	(219,324,980)
8394691	466026	UBACSPX2=UB55	USD	47,737,083
8394691	466026	UBSACMAY=UB55	USD	(3,735,132)
8394691	470241	1776.HK	HKD	1,206,438
8394691	470241	3908.HK	HKD	(557,198)
8394691	470241	6030.HK	HKD	(5,547,502)
8394691	470241	6066.HK	HKD	(545,475)
8394691	470241	6837.HK	HKD	(2,008,999)
8394691	470241	6881.HK	HKD	(2,167,355)
8394691	470241	6886.HK	HKD	(2,001,560)
8394691	471537	5983.T	JPY	129,461

Total Close-out Amount 710,614,923

Failed Settlements (Unpaid Amounts)

CIS Code	Swap ID	RIC	Currency	Unpaid Amount (USD)
8394691	463666	BIDU.OQ	USD	(42,776,826)
8394692	463666	CP8.N	USD	1,337,487
8394693	463666	DISCA.OQ	USD	100,952,677
8394693	463666	DISCK.OQ	USD	4,702,898
8394694	463666	FEM.P	USD	22,145,523
8394695	463666	FTCH.N	USD	20,429,003
8394696	463666	FJBO.N	USD	90,729
8394697	463666	FUTU.OQ	USD	55,084,256
8394698	463666	FXI.P	USD	14,140,205
8394699	463666	GIS.N	USD	821,596
8394700	463666	GSX.N	USD	115,623,144
8394701	463666	IQ.OQ	USD	67,882,315
8394702	463666	K.N	USD	(106,899)
8394703	463666	KHC.OQ	USD	6,265,244
8394704	463666	LC.N	USD	(2,584,541)
8394705	463666	RKT.N	USD	3,501,874
8394706	463666	SIM.N	USD	2,156,136
8394707	463666	SPY.P	USD	9,441,233
8394708	463666	TCBL.OQ	USD	(9,659,890)
8394709	463666	TME.N	USD	137,207,973
8394710	463666	VIAC.OQ	USD	317,863,248
8394691	466026	UBACSPX2=UB55	USD	39,561,283
8394691	466026	UBSACMAY=UB55	USD	(1,378,257)

Total Unpaid Amounts 863,720,408

* Collateral and cash are denominated in USD.

Early Termination Amount 1,574,335,332

Posted Collateral (VM) * 174,207,174

Net Early Termination Amount 1,748,542,506

UBS LLC Proceeds Amount
(See Annex 2) (204,692,694)

UBS LLC other cash* (395,990,569)

UBS AG prime brokerage cash* (287,590,460)

UBS Termination Amount 860,268,783

Annex II**Summary of UBS LLC Proceeds Amount**
Archegos Fund, LP

Positive number = money owed to UBS

Proceeds	(204,693,738)
SEC Fees	\$ 1,044
UBS LLC Proceeds Amount	\$ (204,692,694)

Side	RIC	Quantity	Average Ex	Proceeds
Sell	BIDU.OQ	268,102	208.01	(55,767,897)
Sell	DISCA.CQ	626,607	41.49	(25,999,554)
Sell	DISCK.CQ	21,618	35.62	(764,289)
Sell	FTCH.N	279,655	52.75	(14,751,528)
Sell	FISV.OQ	8,303	121.17	(1,006,042)
Sell	VIAC.OQ	1,776,163	46.08	(81,838,131)
Sell	YELP.N	330,048	38.77	(12,795,390)
Sell	Z.OQ	97,284	121.00	(11,770,907)

**CONFIDENTIAL TREATMENT
REQUESTED BY UBS****UBSARCH0000045**

Annex 3

Payment Instructions
Archegos Fund, LP

USD	Agent 57A:	UBS AG, Stamford [REDACTED]	Final Beneficiary 59A:	UBSWGB2LEQU [REDACTED]
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